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UNITED STATES GENE
WASHINGTON

Mr. Robert F. Keller
Room 7000B

Sep 26, 1979

SEPTEMBER 26, -

STATEMENT OF

ROBERT F. KELLER, DEPUTY COMPTROLLER GENERAL

OF THE UNITED STATES

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ON DISCLOSURE OF LOBBYING ACTIVITIES

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to present the views of the General Accounting Office on S. 1564.

Our testimony this morning will focus on three areas. We first will express our opinion on the need for lobbying disclosure legislation. Second, we will discuss several refinements that could be made to the bill to minimize record-keeping burdens, reduce paperwork, and promote the reporting of meaningful information. And third, we will explain our views on the administration and enforcement of the proposed law.

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NEED FOR DISCLOSURE LEGISLATION

Mr. Chairman, I believe the necessity for change in the present law is now almost universally accepted.

As you may know, on April 12, 1975, GAO issued a report entitled "The Federal Regulation of Lobbying Act--Difficulties in Enforcement and Administration." Since its enactment in 1946, the Federal Regulation of Lobbying Act has been the subject of continual congressional scrutiny and generally has been judged to be ineffective. This judgment was confirmed in our 1975 report. We found enforcement and administration of the Act, together with the Act's substantive provisions, to be woefully deficient. We testified to this effect on numerous occasions before this Committee and the House Judiciary Subcommittee on Administrative Law and Governmental Relations.

Aside from the need to correct the defects of present law, and to remedy the clear shortcomings in the present law's administration and enforcement, the rationale for a new and comprehensive disclosure measure finds support on several other grounds. In recent years, for example, the Congress has passed disclosure legislation that is aimed at openness in Government and at providing members of the public access to information about the workings of their Government. These initiatives cover the disclosure of records through the Freedom of Information Act, the disclosure of campaign finances,

open agency and congressional hearings, and the disclosure of financial holdings of senior governmental officials, and other matters. An important aspect of the governmental process that is not covered in any meaningful way is the disclosure of major lobbying efforts that are designed to secure the passage or defeat of legislation.

We believe a substantial public interest could be served by closing this gap. In the case of lobbying disclosure, the interest to be served is the public's right to know the source and scope of the major influences that are brought to bear on the legislative process by the private and corporate sectors. Removing the cloak of secrecy from efforts to influence the Congress also should improve the public's confidence in the legislative process. Unjustified suspicions of improper behavior could be removed and better appreciation gained of how Congress seeks to develop, from competing views, legislation that is in the public interest.

S. 1564

The disclosure provisions of S. 1564 are a marked improvement over those of the present law. However, we believe several refinements to the bill's registration and disclosure requirements could minimize recordkeeping or paperwork burdens and promote the reporting of meaningful and useful information.

REGISTRATION

S. 1564 would apply to any organization that spends more than $500 in any quarterly filing period to retain another person to engage in certain lobbying activities on its behalf. The bill also would apply to any organization which, acting through its employees, made a specified minimum number of lobbying communications during a quarter and made expenditures in excess of $500 for lobbying. A lobbying organization that crossed either of these so-called "thresholds" would register as a lobbyist and file quarterly reports on certain of its lobbying activities and lobbying expenditures.

To determine whether it had crossed a threshold, S. 1564 would require an organization to allocate its lobbying and non-lobbying expenditures for a number of cost items. These cost items include certain gifts to Federal officers, social events held for the benefit of Federal officers, retainer fees, and lobbyists' salaries. Unlike lobbying disclosure proposals considered by prior Congresses, however, S. 1564 generally does not require organizations to perform cost allocations for comparatively indirect costs like utility expenses, office supplies, clerical staff salaries, and other costs of overhead. We believe the omission of this type of allocation requirement from S. 1564 is wise. By confining eligible threshold expenditures to readily identifiable items such as gifts, retainer fees, salaries, and

the like, lobbying organizations will be able to determine with greater ease whether they have crossed a threshold.

We do have a reservation, however, about two other aspects of S. 1564's registration requirements. First, the bill's quarterly expenditure direct lobbying threshold is set at $500. This threshold conceivably could require registration and reporting by organizations whose efforts to influence the Congress are neither regular, intense, nor costly. For example, an organization could become a lobbyist under the bill simply by paying two of its employees approximately $85 per month to lobby. If the bill is intended to require registration and reporting by only those organizations who engage in significant amounts of lobbying activity, we recommend the Committee consider a substantial upward adjustment in the bill's quarterly expenditure threshold.

A second refinement we believe the Committee should consider concerns contributor disclosure. As the bill is presently drafted, a nonreligious organization must disclose in its registration statement certain contributions it received in the preceding year from other organizations. However, the registering organization may not have been a lobbyist in the year preceding registration. We therefore recommend contributor disclosure requirements be keyed not to registration, but to the fourth quarter report of registered lobbying organizations. This would simplify the process of registration substantially, and no organization

would be required to disclose contributions received during a year in which it was not a registered lobbyist.

QUARTERLY REPORTS

S. 1564 would require registered lobbying organizations to file quarterly reports with the Comptroller General. These reports ordinarily would contain considerably more information than that required for registration.

Among other matters, quarterly reports would disclose: (1) certain expenditures made for the benefit of Federal officers, and the cost of receptions and similar events that cost the reporting organization more than $500; (2) the identity of the organization's retained and employed lobbyists, and expenditures made incident to the employment or retention; (3) the 20 directly lobbied issues upon which the organization spent the most significant amount of its efforts; and (4) certain solicitations.

In general, S. 1564's report disclosure requirements seem reasonable and clear. We have several suggestions, however, about how the reporting requirements could be clarified or simplified to ease administration, reduce paperwork and recordkeeping burdens, and produce more meaningful information about an organization's lobbying activities.

S. 1564 generally eliminates the need for an organization to perform overhead cost allocations when preparing their quarterly reports. As we indicated earlier, the same is

true for the threshold computations that will be performed when an organization determines whether it must register as a lobyist.

To clarify the reporting requirements further, we believe the bill should generally explain the manner in which organizations must identify the 20 issues upon which they spend a "significant" amount of effort. One possible solution would be to retain the numerical ceiling on reportable issues, and to measure a "significant" amount of effort through a percentage approximation of the amount of money expended lobbying on the issues involved.

The bill's solicitation reporting requirements also could be simplified. Once an organization crosses a direct lobbying threshold and spends more than $2,500 on solicitations--i.e. indirect or grassroots lobbying, all issues upon which a solicitation costing more than $500 was made must be disclosed. If a retainee made the solicitation, his identity must be reported as well. We recommend the Committee consider placing a ceiling on the number of indirectly lobbied issues that must be disclosed. We note that the bill already places a ceiling on the number of directly lobbied issues that must be reported. We also question the informational value of requiring the identification of retainees who merely perform the mechanical task of printing and mailing solicitations for a lobbying organization.

RECORDKEEPING

We believe the bill recognizes the importance of reducing paperwork burdens and keeping to a minimum the additional records that must be maintained to comply with a new lobbying law.

To comply with S. 1564's reporting requirements, taxpayer and certain tax-exempt organizations should be able to draw to some extent upon records and accounting systems already maintained under the Internal Revenue Code. Under section 6(c) of the bill, certain tax exempt organizations may satisfy the bill's solicitation disclosure obligations by following substantially the same accounting and reporting procedures as are followed when filing IRS statements. As for taxpayer organizations, the IRS Code generally allows deductions for direct lobbying, but disallows deductions for indirect lobbying. To the extent existing record and accounting systems are used to document or identify deductible and nondeductible lobbying expenditures, these systems could be used to facilitate compliance with S. 1564.

Finally, we note that certain activities that would otherwise qualify as lobbying are specifically exempted from the bill's definition of lobbying solicitation and lobbying communication. Exempt lobbying activities are neither reportable nor considered in the determination whether an organization meets one of the bill's thresholds. We

believe lobbying organizations should have the option of using or disregarding the exemptions when making threshold computations and preparing quarterly reports. In this way, organizations could avoid the necessity of apportioning expenditures and contacts between exempt lobbying and reportable lobbying.

ADMINISTRATION AND ENFORCEMENT

Mr. Chairman, S. 1564 designates the Comptroller General as the official responsible for administering the proposed law, and for ensuring, among other matters, that lobbying information is available to and accurately summarized for the Congress and the public.

We and others have recognized that one unusual and crippling feature of the present law is that the officials responsible for administration act only as repositories of information. They lack authority to provide meaningful assistance and guidance to lobbyists, to issue implementing regulations, to provide oversight to ensure that information received is reported in a timely, accurate and complete manner, or to handle minor compliance problems for which prosecution is not appropriate. Our 1975 report on the present law, as well as studies performed by others, confirmed the near total ineffectiveness of this kind of administration. The problems encountered in administering and enforcing the very limited requirements of the Federal Regulation of Lobbying Act would be compounded if a new and more comprehensive lobbying law were to retain

the present law's administrative and enforcement mechanisms. It therefore has been our consistent position that unless the Comptroller General is given the tools to administer the law effectively, he should not be designated as the official responsible for administration and for providing complete lobbying information to the Congress.

S. 1564, however, represents the kind of lobbying disclosure law we would be willing and able to administer. We consider the bill enforceable, essentially fair, and conducive to sound and effective administration. S. 1564 would correct the bulk of the administrative and enforcement deficiencies contained in existing law.

Under section 8 of the bill, the Comptroller General, after consulting with the Attorney General, would be responsible for promulgating implementing regulations. The Comptroller General also would be in a position to provide meaningful assistance and guidance to lobbying organizations, and he would be empowered to attempt administrative correction of compliance problems for which prosecution by the Department of Justice is neither necessary nor desirable. We endorse these authorizations, and believe they will prove to be essential to sound administration and effective enforcement.

We also wish to emphasize the importance of subsection 8(a)(9) of the bill, which provides that filed registration statements and filed quarterly reports should be reviewed and verified by the Comptroller General to ensure that they are complete, accurate,

and timely. To verify filings, we anticipate it occasionally will be necessary under this authorization to require access to relevant lobbying records of the registrant. The review and verification function is essential to the proper administration of any new lobbying law. As our 1975 report indicated, of the nearly 2,000 lobbyists who filed under the present law in one 3-month period in 1974, over 60 percent filed late and nearly 50 percent of the filings were defective on their face.

So that S. 1564's review function may not be frustrated by an organization's refusal to verify or document its filing or to explain an inconsistent report, we recommend subsection 8(a)(9) be amended to provide the Comptroller General limited authority to subpoena records that are required to be maintained and that relate to filed registration statements and filed quarterly reports. The authorization we propose would be narrower in scope than the Comptroller General's existing subpoena powers in the energy and social security areas, and would apply only when a registered organization refused access to its lobbying records. Although we believe use of this authorization would be extremely rare, we also recognize that some reasonably effective means of ensuring access to required records will be necessary if filings by lobbying organizations are to be responsibly monitored and reviewed.

Mr. Chairman and Members of the Committee, this concludes our statement. We will be glad to respond to any questions you have.